

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 5
August 2013

ALABAMA	SB 201 (Act No. 312)	ENACTED May 23, 2013 EFFECTIVE August 1, 2013, or as noted
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Financing

Provides that the unemployment compensation account of any employer shall be charged when an overpayment has been made to a claimant because the employer or an agent of the employer failed to respond timely or adequately to a request for information relating to an unemployment claim, and the employer or an agent of the employer has established a pattern of failing to respond timely or adequately to a request for information relating to an unemployment claim on two or more occasions. (Effective October 21, 2013.)

ARKANSAS	HB 1570 (Act No. 1458)	ENACTED April 22, 2013 EFFECTIVE August 16, 2013
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Administration

Requires the Department of Finance and Administration to establish and maintain a web page, with assistance from the Department of Workforce Services, to provide a menu of links to employer-related applications for required reporting, tax payments and other data submissions and to provide information about tax submissions, employment reports, child support submissions, including due dates, payment options and agency contact information. The initial scope of the web page shall include:

- online taxpayer services through the Arkansas Taxpayer Access Point web page;
- unemployment and new hire submissions administered by the Department of Workforce Services;
- information concerning employer reporting and payment functions provided by the Office of Child Support Enforcement; and
- flexibility to allow additional links to other state agencies to be added as appropriate.

CONNECTICUT	HB 6151 (P.A. No. 168)	ENACTED June 24, 2013 EFFECTIVE October 1, 2013
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Coverage

Excludes from coverage service performed by a motor vehicle operator transporting property for compensation pursuant to an agreement with a contracting party, provided: the motor vehicle has a gross vehicle weight rating in excess of 10,000 pounds; the operator owns such motor vehicle or holds it under a bona fide lease arrangement; the operator's compensation is based on mileage-based rates, a percentage of any schedule of rates, or by the hours or time expended in relation to actual performance of the service contracted for, or an agreed upon flat fee; and the operator may refuse to work without consequence and may accept work from multiple contracting entities in compliance with statutory and regulatory limitations without consequence.

CONNECTICUT SB 188
 (P.A. No. 2)

ENACTED May 17, 2013
EFFECTIVE July 1, 2013

Administration

Provides that the Connecticut Labor Department shall conduct a study to explore: (1) allowing teachers who are currently eligible to receive unemployment compensation to pursue certain certifications, credentials, endorsements, or specialized training without risk of losing their unemployment benefits, and (2) allowing individuals who are currently eligible to receive unemployment compensation to develop a new business without risk of losing their unemployment benefits. On or before October 1, 2014, the Department shall submit the findings of such study to the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees.

NEVADA AB 482
 (CH 367)

ENACTED and EFFECTIVE June 2, 2013

Financing

Requires the Administrator of the Employment Security Division to establish an assessment, calculated by dividing the interest accruing and payable on Title XII advances received by 95 percent of the total taxable wages paid by all employers in the State during the immediately preceding calendar year. Except as otherwise provided, each employer shall pay a proportionate share of the assessment established which will be calculated by multiplying the employer's total taxable wages paid during the immediately preceding calendar year by the amount of the assessment. The assessment must only be used for the payment of interest accruing and payable on Title XII advances received.

Provides that each employer shall be notified of his or her proportionate share of the assessment on or before June 30 of each year, and interest may be collected on any such amount that remains unpaid on July 31 of each year. Procedures necessary to collect payments shall be established. Any money collected from an employer must be deposited into the newly created Interest Repayment Fund, the special revenue fund. An employer's proportionate share of the assessment must not be charged against the experience rating record of the employer. The provisions of law applicable to the collection of unemployment contributions also apply to the collection of payments. Any nonprofit organization, political subdivision, or Indian tribe, which makes reimbursements in lieu of contributions, is exempt from paying this assessment.

Provides that these provisions are operative only so long as the Interest Repayment Fund continues to exist, and the Administrator continues to accept and deposit payments received from employers into such Fund. If the Administrator determines that the assessment is no longer necessary, the Administrator shall notify all employers paying a proportionate share of the assessment and shall not accept any further payments. If and when the Interest Repayment Fund ceases to exist, any money remaining in the Interest Repayment Fund, after the payment of all interest accruing and payable on Title XII advances received and a determination by the Administrator that no further payments are anticipated, must be deposited into the Unemployment Compensation Fund.

OKLAHOMA

HB 1023
(CH 71)

ENACTED April 16, 2013
EFFECTIVE November 1, 2013

Appeals

Provides that if there is no proof from the post office of the date of mailing then the date of receipt by the Oklahoma Employment Security Commission shall constitute the date of mailing.

Requires good cause for a claimant to request further appeals if the claimant fails to appeal an overpayment determination within the time provided.

Provides that an employer's untimely request for a review of a determination or written protest for an appeal may be allowed for good cause.

Requires the party appealing an order to the district court to notify all opposing parties or their attorneys and the Director of the Appellate Division of the Oklahoma Employment Security Commission and that the Petition for Review include:

- the petitioner or entity filing the petition;
- the Assessment Board as a respondent; and
- all other parties in the proceeding before the Assessment Board as respondents.

Requires the Director of the Appellate Division (previously the designated hearing officer) to process the Petition for Review and to provide transcripts to the appropriate district court and the required parties.

Financing

Provides that the written notice sent to an employer after an initial or additional claim be sent to the employer for whom the claimant last worked at least 15 working days and does not require the days to be consecutive.

Reduces the number of years required for an employer to qualify for experience rating from three to one.

OREGON

SB 590
(CH 184)

ENACTED May 16, 2013
EFFECTIVE January 1, 2014

Administration

Changes the definition of “rehire” to mean an individual who was laid off, separated, furloughed, granted a leave without pay, or terminated from employment for more than 60 days (previously 45).

OREGON

SB 259
(CH 45)

ENACTED and EFFECTIVE April 18, 2013

Overpayments

Provides that the Director of the Employment Department may enter into an agreement with the Federal government for the purpose of offsetting unemployment compensation debt against a Federal tax return. The director may request an offset if:

- the debt is legally enforceable and past due,
- the debt was caused by a willful false statement or misrepresentation, or willfully failing to report a material fact to obtain benefits;
- the appeal period to contest the debt has expired; and
- the director has provided at least 60 days advance written notice that the debt will be offset and that the individual has a right to request an administrative review.

Provides that the director may pay fees charged by the Federal government or the Department of Revenue for processing the offset request. The net amount collected after fees have been paid shall be offset against the individual’s debt.

Requires the director to adopt rules consistent with federal requirements that establish requirements for the advance written notice and procedures for obtaining an administrative review.

Provides that the 60 day advance notice is not valid unless it is sent on or after April 18, 2013, and that the Department may not request an offset until 60 days after April 18, 2013.

TEXAS

HB 2035
(CH 13)

ENACTED May 10, 2013
EFFECTIVE September 1, 2013

Extensions and Special Programs

Provides that shared work benefits paid may not be charged to the account of an employer if the benefits are reimbursed by the Federal government under the Federal Layoff Prevention Act of 2012.

Defines the term “fringe benefit” to mean health insurance, a retirement benefit received under a defined benefit plan as defined by the U.S. Code, or under a defined contribution plan as defined by the U.S. Code, a paid vacation day, a paid holiday, sick leave, or any other similar employee

benefit provided by an employer. (Deletes the language that the term “fringe benefit” means a retirement benefit received under a pension plan.)

Provides that the term “training” means commission-approved voluntary training sponsored by an employer or funded under the Workforce Investment Act of 1998 that is designed to enhance a participant’s job skills.

Permits the Texas Workforce Commission to approve a shared work plan if:

- the plan: (a) identifies the employees in the affected unit by name and social security number and describes how the employees will be notified in advance of the plan, if feasible; (b) provides an estimate of the number of employees who would be laid off if the employer does not participate in the shared work plan; and (c) permits eligible employees to participate in training (deletes the language that for approval of the shared work plan, the plan must describe the manner in which the participating employer treats the fringe benefits of each employee in the affected unit);
- the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of layoffs (previously, temporary layoffs) that would: (a) affect at least 10 percent of the employees in the affected unit; and (b) result in an equivalent reduction in work hours;
- the employer certifies that: (a) if the employer currently provides fringe benefits, the fringe benefits continue for employees in the affected unit unless those benefits are not continued for employees not participating in the shared work plan; and (b) participation in the shared work plan is consistent with the employer’s obligations under State and Federal law; and
- the employer agrees to furnish the Commission reports relating to the operation of the plan as requested by the Commission and any other information the United States Secretary of Labor determines is appropriate.

Deletes the language providing that a shared work plan may not be implemented to subsidize an employer who traditionally has used part-time employees.

Provides that the change in law applies only to a shared work plan submitted by an employer to the Commission on or after September 1, 2013. A shared work plan submitted before September 1, 2013, is governed by the law in effect on the date the plan was submitted, and the former law is continued in effect for that purpose.

WASHINGTON SB 5476
(CH 141)

ENACTED and EFFECTIVE May 3, 2013

Coverage

Excludes from the term “employee” any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street to offices, to businesses, or from house to house and any freelance news correspondent or “stringer” who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

Excludes from the term “employment” and from “coverage” services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street to offices, to businesses, or from house to house and any freelance news correspondent or “stringer” who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.